



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	David A. EVANS et al.	Confirmation No.:	1642
Serial No.:	10/713,645	Art Unit:	2161
Filed:	November 14, 2003	Examiner:	Etienne P. LeRoux
For:	METHOD AND APPARATUS FOR DOCUMENT FILTERING USING ENSEMBLE FILTERS	Attorney Docket No.:	940630-010022

PRE-APPEAL BRIEF REQUEST FOR REVIEW

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Commissioner for Patents
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Sir:

Claims 1-29 stand finally rejected. Claims 1-29 have been rejected as allegedly anticipated under 35 U.S.C. § 102(e) by U.S. Patent Application Publication No. 2004/0039786 to Horvitz *et al.* ("Horvitz CIP"). Claim 1 has also been rejected for allegedly failing to comply with the written description requirement of 35 U.S.C. § 112. These rejections are improper and are based upon clear errors of fact and law. Accordingly, the rejections should be reconsidered and withdrawn.

The present application involves, *inter alia*, a method and apparatus for document filtering using ensemble filters.

I. Various subject matter upon which the Office relies in the Horvitz CIP is not § 102(e) prior art to Applicant's disclosure.

Independent claims 1, 10, 19, 28 and 29 were rejected as allegedly anticipated by the Horvitz CIP, but the rejection is flawed since various subject matter relied upon by the Office does not qualify as § 102(e) art to Applicant's disclosure. This point was emphasized in the prior amendment but apparently the Examiner did not appreciate such. As noted at MPEP § 2136.03(IV), "In order to carry back the 35 U.S.C. 102(e) critical date of the U.S. patent reference to the filing date of a parent application, the U.S. patent reference must have a right of priority to the earlier date under 35 U.S.C. 120 or 365(c) and the parent application must support

the invention claimed as required by 35 U.S.C. 112, first paragraph.” (Emphasis added) As described below, the parent applications of Horvitz CIP do not disclose at least one element explicitly recited in the claims. Thus, for at least one element, the Horvitz CIP is not entitled to carry back its 35 U.S.C. 102(e) critical date to the priority dates of its parent applications. Accordingly, the rejection is improper and should be withdrawn.

Horvitz CIP is a continuation-in-part of two U.S. patent applications. The first is U.S. Patent Application Publication No. 2004/0143636 (“Horvitz Parent I”). Horvitz Parent I is a § 371 U.S. national stage application based on international application PCT/US01/08710, the PCT application having been filed on March 16, 2001. The second is U.S. Patent Application Publication No. 2004/0128359 (“Horvitz Parent II”). Horvitz Parent II is a § 371 U.S. national stage application based on international application PCT/US01/08711, the PCT application having been filed on March 16, 2001. Additionally, Horvitz Parent I, Horvitz Parent II and the Horvitz CIP all claim the priority of U.S. Provisional Application 60/189,801 filed on March 16, 2000 (“Horvitz Provisional”).

The Office relies upon the disclosed combination of the bulk email filter 114 and the urgency filter 120 in the Horvitz CIP as allegedly corresponding to the claimed “combining said first filter with said second filter to create an ensemble filter.” Office Action dated 3/1/07 at page 4. The Office further relies upon Paragraph [0045] and Figure 6 as allegedly corresponding to these features. *Id.* at page 6. However, neither the bulk email filter alone, nor a combination of the bulk email filter and the urgency filter are disclosed in either Horvitz Parent I, Horvitz Parent II, or the Horvitz Provisional. Thus the combination of features relied upon by the Office in the Horvitz CIP in the present rejection is not entitled to the earlier filing dates of either the Horvitz Provisional, Horvitz Parent I or Horvitz Parent II. Accordingly, for purposes of the Office’s rejection, the combination of features from the Horvitz CIP relied upon cannot have a priority date earlier than the filing date of Horvitz CIP (June 30, 2003). Therefore, because claims 1, 10, 19, 28, and 29 are entitled to a priority date of November 15, 2002 by virtue of U.S. Provisional Application 60/426,826, claims 1, 10, 19, 28, and 29 are not properly anticipated by the Horvitz CIP.

Horvitz Parent I is directed to priorities generation and management. Specifically, Horvitz Parent I discloses a system that automatically prioritizes electronic messages according to a learned importance to a user. For example, messages are classified as high, medium, or low

importance by utilizing a training set of examples or other messages having similar degrees of importance to create user priority profiles. *See* Horvitz Parent I Abstract.

Horvitz Parent I discloses a technique of classification wherein a classifier maps an input attribute vector to a confidence that the input belongs to a class. Paragraph [0047]. As shown in Figure 3, new messages are labeled, tagged and/or sorted into one or more folders according to the priorities (*e.g.*, high, medium or low) assigned by the classifier. Paragraph [0151]. However, this reference fails to disclose either the bulk email filter alone or a combination of the bulk email filter and the urgency filter and thus does not provide support for features from the Horvitz CIP on which the Office relies.

Horvitz Parent II is directed to notification platform architecture. Specifically, Horvitz Parent II discloses a system and method that enables a variety of information associated with one or more notification sources to be directed to one or more notification sinks via a notification platform architecture. The architecture includes a context analyzer that determines a user's status such as location and attention focus. A notification manager utilizes the user's status information to determine when and how information generated by the notification sources should be forwarded to the notification sinks. *See* Horvitz Parent II Abstract. Horvitz Parent II relates specifically to notification. This reference also fails to disclose either the bulk email filter alone or a combination of the bulk email filter and the urgency filter and thus does not provide support for features from the Horvitz CIP on which the Office relies.

Further, the Horvitz Provisional has been reviewed, and it is respectfully submitted that it also fails to disclose either a bulk filter alone or a combination of a bulk filter and an urgency filter. This reference also fails to disclose either the bulk email filter alone or a combination of the bulk email filter and the urgency filter and thus does not provide support for features from the Horvitz CIP on which the Office relies.

In addition, Horvitz Parent I, Horvitz Parent II, and Horvitz Provisional fail to disclose "combining said first filter with said second filter to create an ensemble filter" as recited in the present independent claims. Therefore, because Horvitz Parent I, Horvitz Parent II, and Horvitz Provisional fail to recite all of the claimed features, these references are not anticipatory. Thus neither the Horvitz CIP, nor Horvitz Parent I, nor Horvitz Parent II anticipate claims 1, 10, 19, 28, and 29 and the § 102(e) rejection should be withdrawn. Claims 2-9, 11-18 and 20-27 are also allowable at least by virtue of dependency.

II. The § 112, first paragraph rejection ignores subject matter disclosed in the specification that demonstrates that the Applicant had in possession of the claimed invention at the time the application was filed.

The Examiner has asserted that the specification did not adequately describe a “first set of documents from a training set of documents,” “first profile,” “second set of documents,” “third set of documents,” “fourth set of documents,” “second profile,” and “combining said first filter with said second filter to create an ensemble filter.” Applicants traverse the Office’s assertion and submit that these features are sufficiently described in the specification. The Office is reminded that there is no requirement for the claims to use exactly the same language as that in the specification. The following list of nonlimiting examples of support are provided for illustration.

In an exemplary embodiment detailed in Paragraphs [0176] to [0193], a cascade construction algorithm in pseudo-code is described.

Paragraph [0177], which recites “Split Train into two subsets D1 and D2,” provides an example of “identifying a first set of documents from a training set of documents.”

Paragraph [0183], which recites “Extract features and weights using E and N over D1_{pos},” provides an example of “identifying a first profile.”

Paragraph [0186], which recites “Filter D1 using Models[i] into positive subset Pos[i] and negative or fallout or remainder subset Neg[i],” provides an example of “identifying a second set of documents and a third set of documents.”

Paragraph [0187-0188], which recites “Set D1 to negative subset Neg[i]” and “Partition D1 into positive examples D1_{pos} and negative examples D1_{neg},” provides an example of “identifying a fourth set of documents from said third set of documents.”

Paragraph [0183], which recites “Extract features and weights using E and N over D1_{pos},” provides an example of “identifying a second profile.” Note that the pseudo-code describes a Do-While loop in Paragraph [0180], which is why the step recited in Paragraph [0183] corresponds to both “identifying a first profile,” and “identifying a second profile.”

Paragraph [0193], which recites “Arrange models in Models [sic] in cascade sequence in increasing order of index,” provides an example of “combining said first filter with said second filter to create an ensemble filter.”

It is respectfully submitted that, in light of at least the above examples from the specification, one of skill in the art would recognize that the applicant was in possession of the

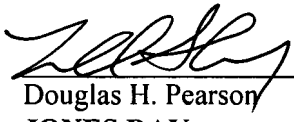
claimed invention at the time of filing. Accordingly, the written description requirement should be withdrawn.

CONCLUSION

In light of the above, it is respectfully requested that the rejections be withdrawn and that a Notice of Allowance be issued.

Respectfully submitted,

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